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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,521	12/20/2000	Paul Vegliante	2112-342 US	6443

7590

08/29/2003

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EXAMINER
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HAMILTON, ISAAC N

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 08/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/741,521

Applicant(s)

VEGLIANTE ET AL.

Examiner

Isaac N Hamilton

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 4-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The finality of the Office action mailed is hereby withdrawn in view of the new ground of rejection set forth below.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 10-11, "adapted to provide a positive charge to film" is indefinite because it does not specify if the rail is positively charged or if the rail is negatively charged. Claims 4-7 are dependent on a cancelled claim 3. Additionally, claim 4 is indefinite because a shore A "durometer" is an apparatus for measuring the hardness of a plastic. It is suggested that "durometer" be changed to --hardness--.

Claim 14 recites the limitation "said cavity" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 16, "a bumper of elongated rail base" is indefinite because it does not clearly describe if the bumper is on the rail base or on another element and only in contact with the rail base.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4-8, 11-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Castelli (3,199,394). Castelli discloses rail base 13 and 14; pair of rails 26 and 27; channel; 28; blade housing 12; upper portion 31, 35; lower portion 29; blade 33; bottom edge of housing 35 in figure 5; end surface at either end of bottom edge of housing 35 in figure 5; end surface is rounded and inclined upwardly in figure 5; lower portion slidably moving in the channel in column 3, lines 31-45; a charge is provided to the film because the rails are made of plasticized polyvinyl chloride, which inherently holds a charge that provides a clinging force. Evidence that polyvinyl chloride provides a charge and a clinging force is shown in sections 16.1-16.4 of Boston University's Physics web page. Regarding other claims note, polyvinyl chloride has a shore A hardness; PVC is another name for polyvinyl chloride; the method of how the apparatus is made, such as extrusion or injection molding, does not further limit the structure; the term "plasticized" means that a material is flexible; PVC has a smooth surface and lubricity is provided by the smooth surface; the bottom edge of housing 35 is angled in figure 5; the blade 33 is angled at 30 degrees in figure 5; tracking device 29; tubular base 29; middle portion 32; cavity 11 has tubular shape; predetermined length of middle portion 32 in figure 4; end caps and bumper juxtaposed cover 16 and protrusions 18; depression 10; left section 31; right section 35; rivet 34, 36; aperture of blade around rivet 34, 36.

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Castelli in view of Chuang (4,960,022). Castelli discloses everything as noted above, but does not disclose a concave grip surface. However, Chuang teaches concave gripping surface 308. It would have been obvious to provide concave a concave gripping surface in Castelli as taught by Chuang in order to provide a comfortable surface for the user's finger while utilizing the apparatus.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Castelli in view of Larson (4,202,233). Castelli discloses everything as noted above, but does not disclose a housing made of acetal. However, Larson teaches housing 68 made of acetal in column 3, lines 35-49. It would have been obvious to provide a housing made of acetal in Castelli as taught by Larson in order to reduce sliding friction.

9. Regarding claim 17, Castelli discloses everything, and discloses male protrusions 18 attached to rail base 13 and 14; female receptacles juxtaposed cover 16 and protrusions 18. However, Castelli does not teach that the male protrusions are attached to the end cap. It would have been obvious to provide the protrusions on the end cap and the female receptacle on the rail base because a simple reversal of parts is an obvious design choice.

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***Response to Arguments***

Applicant's arguments with respect to claims 1, 2 and 3-18 have been considered but are moot in view of the new ground(s) of rejection. The amendment after final filed 7-21-03 has been entered.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 703-305-4949. The examiner can normally be reached on Monday thru Friday between 8am and 5pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

*IH*

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August 25, 2003

*all*

Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700